

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

SHAUNA WILLIAMS; *et al.*,

Plaintiffs,

v.

REPRESENTATIVE DESTIN HALL, in his
official capacity as Chair of the House
Standing Committee on Redistricting; *et al.*,

Defendants.

Civil Action No. 23-CV-1057

NORTH CAROLINA STATE CONFERENCE
OF THE NAACP; *et al.*,

Plaintiffs,

v.

PHILIP BERGER, in his official capacity as
the President Pro Tempore of the North
Carolina Senate; *et al.*,

Defendants.

Civil Action No. 23-CV-1104

**LEGISLATIVE DEFENDANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Defendants Representative Destin Hall, Senator Ralph Hise, Senator Paul Newton,
Senator Warren Daniel, Speaker Timothy K. Moore¹, and President Pro Tempore Philip E.

¹ Speaker Moore will not return to the General Assembly for the 2025-2026 legislative session, as he was recently elected to Congress. Legislative Defendants will notify the Court and all parties of the new Speaker upon his or her election.

Berger, each in their official capacities (collectively, “Legislative Defendants”), by and through undersigned counsel, file this motion for partial summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56.1, on all of Plaintiffs’ claims challenging districts where Plaintiffs do not reside and NAACP Plaintiffs’ malapportionment claims. There are no genuine issues as to any material facts and Defendants are entitled to judgment as a matter of law.

In support of this motion, Legislative Defendants contemporaneously file a supporting memorandum of law and incorporate by reference the facts and arguments stated therein.

Additionally, in support of this motion, Legislative Defendants submit and incorporate by reference the following exhibits:

- Exhibit 1: Cited Excerpts from the Deposition of Bob Phillips, Rule 30(b)(6) Representative for Plaintiff Common Cause.
- Exhibit 2: Cited Excerpts from the Deposition of Deborah Maxwell, Rule 30(b)(6) Representative for Plaintiff North Carolina State Conference of the NAACP (Vol. I).
- Exhibit 3: Cited Excerpts from Expert Reply Report of Anthony E. Fairfax.
- Exhibit 4: Population Deviation Report for 2023 Senate Plan, SL 2023-146².

² This Court may take judicial notice of the StatPack for SL 2023-146 which contains the Population Deviation Report for the 2023 Senate Plan as it is an official government record that is not subject to reasonable dispute, and is derived from a reliable publicly available source, found here: https://www.ncleg.gov/Files/GIS/Plans_Main/Senate_2023/SL%202023-146%20Senate%20-%20StatPack2023_RVR_S.pdf. Fed. R. Evid. 201; *Hall v. Virginia*, 385 F.3d 421, 424 & n.3 (4th Cir. 2004).

- Exhibit 5: Population Deviation Report for 2023 House Plan, SL 2023-149³.
- Exhibit 6: Cited Excerpts from Corrected Expert Report of Anthony E. Fairfax.
- Exhibit 7: Cited Excerpts from the Deposition of Anthony Fairfax.
- Exhibit 8: Cited Excerpts from the Deposition of Blake V. Springhetti.
- Exhibit 9: Cited Excerpts from the Deposition of Senator Ralph E. Hise, Jr.
- Exhibit 10: Cited Excerpts from Expert Report of Michael Barber, PhD.
- Exhibit 11: 2024 North Carolina Senate election results⁴.
- Exhibit 12: 2024 North Carolina House of Representatives election results.

WHEREFORE, Legislative Defendants respectfully request that the Court grant this motion for partial summary judgment, dismiss all of Plaintiffs' claims challenging districts where Plaintiffs do not reside, and dismiss NAACP Plaintiffs' malapportionment claims with prejudice.

Respectfully submitted, this the 6th day of December, 2024.

³ This Court may take judicial notice of the StatPack for SL 2023-149 which contains the Population Deviation Report for the 2023 House Plan as it is an official government record that is not subject to reasonable dispute, and is derived from a reliable publicly available source, found here: https://www.ncleg.gov/Files/GIS/Plans_Main/House_2023/SL%202023-149%20House%20-%20StatPack2023_RVR_H.pdf. Fed. R. Evid. 201; *Hall*, 385 F.3d at 424 & n.3.

⁴ The Court may take judicial notice of the North Carolina State Board of Elections' election results contained in Exhibits 11 and 12 because they are other official agency public records that are beyond repute. Fed. R. Evid. 201; *Fauconier v. Clarke*, 652 Fed. App'x 217, 220 (4th Cir. 2016); *Phillips v. Pitt Cnty. Mem. Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009); *Hall*, 385 F.3d at 424 & n.3.

The 2024 North Carolina Senate general election results are publicly available here: https://er.ncsbe.gov/?election_dt=11/05/2024&county_id=0&office=NCS&contest=0. The 2024 North Carolina House of Representatives general election results are publicly available here: https://er.ncsbe.gov/?election_dt=11/05/2024&county_id=0&office=NCH&contest=0.

As of the date of this filing, the official election results have not yet been released in full, and thus these are unofficial election results. Legislative Defendants will provide the Court with updated official copies of the 2024 general election results once all results have been certified.

BAKER & HOSTETLER LLP

Katherine L. McKnight*
DC Bar No. 994456
Richard B. Raile*
DC Bar No. 1015689
Trevor Stanley*
DC Bar No. 991207
1050 Connecticut Ave. NW
Suite 1100
Washington DC 20036
Ph: (202) 861-1500
rraile@bakerlaw.com
kmcknight@bakerlaw.com
tstanley@bakerlaw.com

Patrick T. Lewis*
Ohio State Bar No. 0078314
Key Tower
127 Public Square, Suite 2000
Cleveland, Ohio 44114
Ph: (216) 621-0200
plewis@bakerlaw.com

Erika D. Prouty*
Ohio State Bar No. 0095821
Rebecca Schrote
Ohio State Bar No. 0101051
200 Civic Center Drive, Suite 1200
Columbus, Ohio 43215
Ph: (614) 462-4710
eprouthy@bakerlaw.com
rschrote@bakerlaw.com

* *Appeared via Special Notice*

**NELSON MULLINS RILEY &
SCARBOROUGH LLP**

By: /s/ Phillip J. Strach
Phillip J. Strach
North Carolina State Bar No. 29456
Alyssa M. Riggins
North Carolina State Bar No. 52366
Cassie A. Holt
North Carolina State Bar No. 56505
Jordan A. Koonts
North Carolina State Bar No. 59363
301 Hillsborough Street, Suite 1400
Raleigh, North Carolina 27603
Ph: (919) 329-3800
phil.strach@nelsonmullins.com
alyssa.riggins@nelsonmullins.com
cassie.holt@nelsonmullins.com
jordan.koonts@nelsonmullins.com

Attorneys for Legislative Defendants

CERTIFICATE OF SERVICE

I, Phillip J. Strach, hereby certify that on this day the forgoing document was electronically filed with the Clerk of Court using the CM/ECF system, which will provide electronic notice to all counsel of record.

This the 6th day of December, 2024.

**NELSON MULLINS RILEY &
SCARBOROUGH LLP**

/s/ Phillip J. Strach _____
Phillip J. Strach